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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,646	06/27/2003	Guyton P. Swindell	A8973	2684

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EXAMINER
PHAN, THIEM D

ART UNIT	PAPER NUMBER
3729	

MAIL DATE	DELIVERY MODE
10/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/607,646	Applicant(s) SWINDELL ET AL.	
	Examiner Tim Phan	Art Unit 3729	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 0/17/07 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:. See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

T.P.

Continuation of 11. does NOT place the application in condition for allowance because: Applicants' remarks filed on 10/17/07 re-traversing the rejections of Claims 6-12 are hold not to be persuasive for the following reasons:
Applicants assert that one of ordinary skill in the art would not be motivated to combine the teachings of Smith et al (US 5,696,864) and Forrester et al (US 5,867,624) to arrive at the claimed invention (Remarks, page 2, first 2 paragraphs; claims 6 & 12), especially when Smith et al fail to disclose or suggest a self-supporting first fiber optic cable and the clamps (Fig. 1, 21 & 22) for self support. In response to applicants' arguments that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Smith et al do not teach a self supporting fiber optic cable with the clamps attached to it directly and the examiner views the claimed limitation in light of the specification and drawings where the clamps (Specification, Fig. 1, 28 & 30) are not attached directly to the fiber optic but to the splice (Fig. 1, 24) while Smith et al teach a fiber optic cable (Fig. 1, 50; col. 2, lines 36 & 37) with the clamps (Fig. 1, 22) attached to the splice or ONU (Fig. 1, 23). Forrester et al teach a self-supporting cable (Fig. 9, 50) with the clamps used to attach the splice (Fig. 9, 70). Therefore, the combination of Smith et al in view of Forrester et al do teach the limitation of "applying a clamp to a first portion of a self-supporting first fiber optic cable" as claimed.
Applicants further recite that the motivation to use fiber optic cable to avoid crosstalk contamination to circuitry, as taught by Forrester et al, is unnecessary because Smith et al already use power cable (Fig. 1, 16) next to communications cable (Fig. 1, 18) where both feed through the splice or optical network unit (ONU) (Remarks; page 2, last paragraph). First, the power cable (16) in Smith et al is a typical filtered power cable and mostly DC power used to energize the circuitry in the splice box therefore it doesn't generate crosstalk or electromagnetic interference (EMI) like the high voltage power line and transformer used to power the neighborhood. Therefore, the motivation to use fiber optic cable in proximity to high AC power line is necessary to avoid any crosstalk or EMI that affects the data signals.
Moreover, applicants cite that one of ordinary skill in the art would not eliminate the strand (Fig. 1, 12) used to support the cable as taught by Smith et al (Remarks, page 3, lines 3-5). Again the rejection is a 103(a) where Forrester et al teach a self-supporting fiber optic cable (Fig. 19, 50) and it would be obvious to one of ordinary skill in the art to modify the method of Smith et al by applying the self-supporting fiber optic cable, as taught by Forrester et al, in order to eliminate the unnecessary extra costs of the strand cable (Fig. 1, 12) along the whole length of the fiber cable (Fig. 1, 18).
Regarding claims 7-11, the rejection stand rejected as carefully articulated in the previous action and with respect to the responses to the arguments cited above.